



CALIFORNIA ASSOCIATION of SANITATION AGENCIES

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March 1, 2005

Via Electronic and U.S. Mail

MLPA Public Comments
c/o The California Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Attn: Melissa Miller-Henson
(melissa@resources.ca.gov)

**SUBJECT: COMMENTS REGARDING THE MLPA PRELIMINARY
DRAFT MASTER PLAN FRAMEWORK**

Dear Ms. Miller-Henson:

The California Association of Sanitation Agencies (CASA) appreciates the opportunity to provide comments regarding the MLPA Preliminary Draft Master Plan Framework. CASA is a statewide association of 111 local public agencies that provide wastewater collection, treatment and water recycling to millions of Californians. CASA has been following the work of the Blue Ribbon Task Force primarily through the activities of the Statewide Interests Group. Our comments are based upon the February 15, 2005 version of the draft framework.

CASA supports the goal of protecting our marine resources, which are critical to the State's economic and social interests, including tourism, recreation, fishing and commerce. We believe it is essential that the Master Plan Framework take into account the need to balance the use of our ocean waters with the goals of protecting and preserving the rich and varied ecosystems that make our coast unique. As an initial comment, we believe that the schedule for target dates for release of documents and subsequent public review is overly ambitious and does not allow adequate opportunity for public review and comment. We recognize the interest in moving the MLPA effort forward, but are concerned that opportunities for meaningful comment will be unreasonably limited by the fast track nature of the process.

Introduction

We agree with the conclusion of the expert panel that selecting locations for marine protected areas (MPAs) must take into account socio-economic impacts as well as environmental criteria, and that it is essential to involve all potential stakeholders from the beginning to develop plans for MPAs. (Draft Framework at 9.)

Design of MPAs and the MPA Network

We recognize that requiring perfect scientific information is not realistic. On the other hand, we do not believe it is sound public policy to move ahead with decisions where scientific and technical information are lacking. We are concerned about the statements that the “best readily available science” or “the level of science that is practicable” should be used to develop MPLA networks. (Draft Framework at 13.) Some minimum acceptable level of scientific information required to designate MPAs should be specified, and where sufficient information is not available, data gathering and investigation should be undertaken to fill the gaps *before* MPAs are designated.

We agree that the design process should draw on the knowledge, values and expertise of local communities. (Draft Framework at 13.) In particular, it is essential that representatives of local government be included on the regional working groups of stakeholders convened to assist in developing the major aspects of MPA networks.

In requiring that “current and anticipated activities” that may affect representative habitats be described, the draft framework includes “non-point and point source pollution” in the enumerated activities. (Draft Framework at 15.) Pollution, however, is not an activity; rather, pollution may be a consequence or effect of other activities, such as urbanization, agriculture, forestry, etc. It should also be noted, though, that a permitted or controlled discharge should not be expected to result in “pollution,” since requirements are included in permits to ensure that beneficial uses of waters of the State are protected. The framework should be re-drafted to require that existing and planned activities and infrastructure (such as outfalls and research facilities or activities) be described.

We were pleased to see recognition in the draft framework that other programs also address ocean and coastal ecosystem protection and that these other programs should be taken into account in developing regional goals and objectives. (Draft Framework at p. 18.) CASA has been concerned for some time about the myriad potentially overlapping area designations outlined in various statutes, such as areas of special biological significance, state water quality protection areas or national estuarine research reserves.. It is critical that the MPA program not be implemented in a manner that ignores the existence of these other programs. This section of the draft framework should be expanded to discuss the various programs that exist to protect marine resources and should expressly address the relationship of these other programs to the MPA networks.

With regard to state marine parks and conservation areas, the draft framework suggests that “zoning plans” can separate incompatible uses and allow compatible uses. (Draft Framework at 22.) It is critical that this analysis be informed by the consideration of existing infrastructure and the investments that communities have made in facilities

over many years. For example, if a determination was made that municipal stormwater or wastewater outfalls are “incompatible” with designation of marine parks or conservation areas, this could have significant economic impacts on local communities. The framework should emphasize the avoidance of future incompatible uses and eliminating those that can be addressed without major alterations in infrastructure.

In addition, despite references to adaptive management and an iterative process, it is unclear whether the designation of MPAs and development of an MPA network is intended to be accomplished through one round of regional MPA network development or through several iterative proposals over a period of years or even decades. Also, it is somewhat unclear whether MPA designations may ever be changed or “undone,” should circumstances change and modifications be warranted.

Management

The draft framework emphasizes development and management of MPAs on a regional basis. While we agree that site-specific conditions and concerns are relevant to designation of MPA networks, we are also concerned that the criteria for establishing, designing and evaluating MPAs be consistent and equitably applied throughout the State. These criteria, and the process for nominating or considering recommended areas, need to be very clear and transparent to the public and interested parties, and should be clearly explained within the Master Plan Framework document.

Enforcement

CASA acknowledges the importance of an effective enforcement program to successful implementation of the MPA program. We also realize that clear “bright line” standards lend themselves to easier enforcement. We are somewhat concerned, however, that the draft framework seems to encourage the use of straight line boundaries without regard to whether these boundaries are coincident with the existence of ecosystems and resources that the MPAs are intended to protect. (Draft Framework at 36.) This discussion should be clarified to state that where appropriate, considering scientific, technical and socio-economic factors, straight line boundaries are preferred but that the framework does not require this approach.

Monitoring and Evaluation of MPAs

The Monitoring and Evaluation section is very general, and it is not clear that it is designed to ensure that a consistent approach will be taken in different regions and different MPAs. We believe it would be preferable to have a single overall monitoring and evaluation plan/approach for the entire MPA system, so that it will be possible to determine both the success of the system as a whole and of individual MPAs in meeting

the MLPA goals. There are a number of key issues to be resolved with regard to monitoring, such as how monitoring activities be funded.

In addition, we believe the focus of the monitoring program should be on trends, and on distinguishing and documenting the impacts of MPA designation and management, in the larger context of what's happening in the marine environment. For instance, there are cyclical events that happen in the marine environment (e.g. El Nino years) that occur over wide geographic contexts. If these conditions and cycles are not taken into account, local impacts measured at a particular point in time may appear to be anomalous when in reality, in the larger context of the environment over time, the conditions are consistent with a viable ecosystem.

The draft framework states that results from monitoring and evaluation should be reviewed annually. (Draft Framework at 42.) Given our experience with other monitoring and assessment programs, this goal seems unrealistic. A review every three to five years is more realistic, more likely to give useful information about trends, and provide a context within which local anomalies can be identified and evaluated.

Certain of the enumerated biophysical indicators are general and only vaguely described (e.g. measures of ecosystem condition, water quality). (Draft Framework at 43.) The socioeconomic indicators also tend to be vague, and some of them are based on subjective data, rather than objective data (e.g. perceptions of non-market and non-use value). Some appear to be aimed at assessing how successful the managing entities are at educating resource users and the public about the program (e.g. level of understanding of human impacts on resources, shareholder knowledge of natural history, etc). These indicators should be clarified so that it is apparent how they will be used and what information they are intended to provide.

Lastly, we agree with the premise that prior knowledge of variability in the indicators selected is essential to development of true knowledge about baseline conditions. (Draft Framework at 44.) It is vital that we understand and recognize seasonal and short-term variations that exist in the natural environment in order to place monitoring results in the proper context.

Financing

The draft framework notes that state funding is a variable and not always reliable source of funding for MPA activities. (Draft Framework at 45.) The framework then indicates that lack of funds is insufficient reason for inaction, drawing an analogy to pollution control. There is a key distinction between many traditional pollution control activities and the MPA program, however. Most of the costs of water quality improvement programs are now borne by the permit holders, who pay not only the costs

of monitoring and compliance but also fund the state regulatory agencies through the payment of fees. A fee-based model will not be successful in the context of marine protection, where those who use and benefit from the MLPA program are the public at large. If the MLPA is to be successfully implemented, general fund monies, or other statewide funding sources such as bond revenues, must be earmarked for the program.

Thank you for the opportunity to provide our comments on the Draft Master Plan Framework. We look forward to discussing these issues further during the upcoming conference call of the Statewide Interests Group.

Sincerely,

A handwritten signature in black ink, appearing to read "Roberta L. Larson". The signature is fluid and cursive, with the first name "Roberta" being more prominent.

Roberta L. Larson

RLL/jlp

cc: Mike Weber, Resources Agency (via electronic mail)
James Colston, Orange County Sanitation District (via electronic mail)
Sharon Green, County Sanitation Districts of Los Angeles County (via electronic mail)